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**JUN 10 2008**

**OFFICE OF PETITIONS**

In re Application of	:	
Eric J. Horvitz	:	
Application No. 09/894,087	:	
Filed: June 28, 2001	:	DECISION ON PETITION
Attorney Docket No. MS171133.1	:	PURSUANT TO
Title: METHODS FOR AND	:	37 C.F.R. § 1.137(B)
APPLICATIONS OF LEARNING AND	:	
INFERRING THE PERIODS OF TIME	:	
UNTIL PEOPLE ARE AVAILABLE OR	:	
UNAVAILABLE FOR DIFFERENT	:	
FORMS OF COMMUNICATION,	:	
COLLABORATION, AND INFORMATION	:	
ACCESS	:	

This is a decision on the petition filed September 11, 2007, pursuant to 37 C.F.R. § 1.137(b), to revive the above-identified application.

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed May 11, 2007, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue and publication fees<sup>1</sup>. Accordingly, the above-identified application became abandoned on August 12, 2007. A Notice of Abandonment was mailed on September 6, 2007.

<sup>1</sup> See MPEP § 710.02(e).

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

- (1) The reply required to the outstanding Office action or notice, unless previously filed;
- (2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
- (4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

The petition, issue, and publication fees will be charged to Petitioner's Deposit Account, as authorized in the petition, in due course.

37 C.F.R. § 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional. Since the statement contained in this petition varies from the language required by 37 C.F.R. § 1.137(b)(3), the statement contained in this petition is being construed as the statement required by 37 C.F.R. § 1.137(b)(3) and Petitioner must notify the Office if this is not a correct interpretation of the statement contained in this petition.

As such, the first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.

The petition under 37 C.F.R. § 1.137(b) is **GRANTED**.

Regarding Petitioner's request for the waiver of the fee that is associated with the filing of this petition, the request cannot be granted, as petition fees are jurisdictional. Petitioner will note that 37 C.F.R. § 1.137(b) specifically sets forth that a "grantable petition pursuant to this paragraph must be accompanied by...the petition fee..."

Pursuant to this decision, the Office of Patent Publication will be notified of this decision so that the present application can be processed into a patent.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Office of Patent Publication in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Office of Patent Publication where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225<sup>2</sup>. All other inquiries concerning the status of the application should be directed to the Office of Patent Publication at 571-272-4200.

/Paul Shanoski/  
Paul Shanoski  
Senior Attorney  
Office of Petitions

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<sup>2</sup> Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.